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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,738	06/08/2001	Boris Viktorovich Moiseev	MOISEEV ET AL-1 PCT	9616
25889	7590	08/05/2008		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER BEKIRMAN, MICHAEL	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 08/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/857,738

Applicant(s)

MOISEEV ET AL.

Examiner

MICHAEL BEKERMAN

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-56, 58 and 59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-56, 58 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/17/2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 41-56, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (U.S. Patent No. 6,292,210) in view of Chapman (U.S. Patent No. 5,977,962).**

Regarding claims 41, 42, 50 and 58, Gerszberg teaches a system including a user's device (which could be any number of devices) connected via a connection unit to a memory device (ISD, which examiner considers to act as a server) (Column 5, Lines 35-40). Also included into said system is a device for generating a set of

requested information and advertising information (television, which examiner also considers to be an information display board) (Column 9, Lines 27-33). It is inherent that a device for displaying advertisement information (such as a television) would also have an entry for inputting advertisement information. Examiner considers the memory device above to be an advertising information memory device. Examiner considers the set-top box to be a microprocessor (Column 9, Lines 27-38).

While Gerszberg teaches sending programming as well as advertising to the user, Gerszberg does not appear to specify allowing the user to choose from a list of specific advertising services. Chapman teaches categorizing advertisements and giving the user a menu of different types of advertisements that the user can select (Column 9, Lines 41-48). The menu having different types of advertisements is taken to read on a list of advertising services. It would have been obvious to one having ordinary skill in the art at the time the invention was made to give the user a choice of the type of advertising to be viewed. This would lead to a better opportunity for more sales to be made, as users are only looking at advertisements that interest them.

Regarding claims 43 and 44, these claims merely specify intended use. The television of Gerszberg is capable of showing a video display of requested information (television programming) and advertising information simultaneously (Column 4, Lines 5-13 and Column 12, Lines 13-16 and 38-40).

Regarding claim 45, Gerszberg teaches both the requested and advertising information as having video, but neither Gerszberg nor Chapman appears to specify the advertisements as having sound. Official notice is taken that it is well known to add

sound to a video advertisement shown on a television. Just about any television commercial represents an example of having both video and audio. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include audio in the advertisements of Gerszberg. This would allow for a better understanding of the advertisement, as it could be heard as well as seen.

Regarding claims 46-49, Gerszberg shows a user device as being any of the following: a computer (Column 5, Lines 35-38), a telephone or videophone (Column 5, Lines 35-38), or a remote control/phone combination unit (Column 3, Lines 2-4). Gerszberg also teaches a printer as being connected to a videophone (Column 7, Line 55). Claim 46 merely specifies intended use.

Regarding claim 51, Gerszberg teaches the ISD to act as a multiplexer (Column 2, Lines 59-60).

Regarding claims 52-56, Gerszberg teaches the communication network as being a telephone network (the communication in this case involves the transmitting of audio to the television) (Column 3, Lines 4-10). Gerszberg also teaches a wide area network such as the Internet as being available (Column 7, Line 3).

Regarding claim 59, Examiner reads the broad meaning of change of sequencing to encompass a change in the order of provided information or advertising. Thus, a television remote control as referenced by Gerszberg (Column 9, Lines 31-33) would be capable of changing the channel, which is a change in the order that information is provided, and thus represents a change in the sequencing of provided information (or advertisements). Further, Gerszberg teaches the system as

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incorporating components such as a VCR (Column 9, Lines 35-38). VCR's are inherently capable of arranging a sequencing of programming in whichever fashion the user chooses. This reads on the "preliminary chosen procedure of different sequencing".

Response to Arguments

The rejections above have been amended due to the amended claim language. All arguments are believed to have been addressed in the amended rejection above. Added language in the rejection for claims 41, 42, 50, and 58 has been underlined for Applicant's convenience.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL BEKERMAN whose telephone number is (571)272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael Bekerman/
Examiner, Art Unit 3622